

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CIVIL CASE NO. 1:09cv203

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|---|---|-------------------------------|
| CHERIE FUERTES SNEED, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | <u>ORDER OF REMAND</u> |
| |) | |
| MICHAEL J. ASTRUE, |) | |
| Commissioner of Social Security, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

THIS MATTER is before the Court on the parties' Assented to Motion for Reversal and Remand pursuant to Sentence Four of 42 U.S.C. §405(g) [Doc. 10].

Sentence four of 42 U.S.C. §405(g) provides in pertinent part, "[t]he court shall have the power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing." The parties have moved for reversal of the decision of the Defendant and remand for further administrative proceedings.

Specifically, the parties ask that the Commissioner be instructed to assign this matter to an Administrative Law Judge (ALJ) in order to (1) further consider the numerous opinions in the file regarding the severity of Plaintiff's mental impairments, (2) obtain evidence from a medical expert specializing in mental health, and (3) further consider whether Plaintiff's past work as a card room/video poker attendant was performed at the substantial gainful activity level and whether Plaintiff can perform such work. In order to accomplish this, the ALJ shall conduct a new hearing where Plaintiff shall be permitted to appear and present evidence, and shall issue a new decision.

Based on the representations of the parties, the Court finds that reversal and remand are appropriate. Melkonyan v. Sullivan, 501 U.S. 89, 111 S.Ct. 2157, 115 L.Ed.2d 78 (1991).

IT IS, THEREFORE, ORDERED that the parties' Consent Motion for Reversal and Remand pursuant to Sentence Four of 42 U.S.C. §405(g) [Doc. 10] is hereby **GRANTED**; and

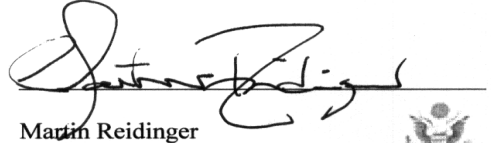
IT IS FURTHER ORDERED that the decision of the Commissioner of Social Security is hereby **REVERSED** and the case is **REMANDED**; and

IT IS FURTHER ORDERED that upon remand, the Commissioner be instructed to assign this matter to an Administrative Law Judge (ALJ) who

shall (1) further evaluate all medical source opinions, including that of Dr. Howard Brown; (2) further evaluate the Plaintiff's residual functional capacity; and (3) obtain supplemental vocational expert evidence should the same be necessary. In order to accomplish this, the ALJ shall conduct a new hearing and issue a new decision.

A Judgment of Remand is entered simultaneously herewith. The Clerk of Court is notified that this is a final judgment closing the case.

Signed: July 15, 2010



Martin Reidinger
United States District Judge

